

## **PROPOSAL**

### **Maryland Register**

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## **Title 10**

# **MARYLAND DEPARTMENT OF HEALTH**

## **Subtitle 43 BOARD OF CHIROPRACTIC EXAMINERS**

### **Notice of Proposed Action**

[19-216-P]

The Secretary of Health proposes to:

(1) Amend Regulation **.01**, recodify existing Regulations **.02**, **.06**, and **.11—.14** to be Regulations **.04**, **.12**, and **.15—.18**, respectively, amend and recodify existing Regulations **.03**, **.04**, **.05**, **.07**, **.08**, **.09**, and **.10** to be Regulations **.05**, **.06**, **.02**, **.03**, **.07**, **.08**, and **.09**, respectively, and adopt new Regulations **.10**, **.11**, **.13**, and **.14** under **COMAR 10.43.07 Chiropractic Assistants**;

(2) Amend Regulation **.06** under **COMAR 10.43.13 Code of Ethics**; and

(3) Amend Regulations **.03** and **.04** under **COMAR 10.43.14 Record Keeping**.

This action was considered by the Board of Chiropractic Examiners at a public meeting on February 14, 2019, notice of which was given by publication on the Board's website at <https://health.maryland.gov/chiropractic/Pages/index.aspx> pursuant to General Provisions Article, §3–302(c), Annotated Code of Maryland.

### **Statement of Purpose**

The purpose of this action is to:

- (1) Define and establish parameters for indirect supervision of chiropractic assistants;
- (2) Update qualifications and training requirements for chiropractic applicants and assistants;
- (3) Add clarifying language for supervision;
- (4) Update certain definitions;
- (5) Reorganize existing regulations;
- (6) Add regulations to outline procedures for inactive status and nonrenewed status; and
- (7) Add clarifying language regarding patient consent.

### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

### **Estimate of Economic Impact**

The proposed action has no economic impact.

### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to Jake Whitaker, Acting Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to [mdh.regs@maryland.gov](mailto:mdh.regs@maryland.gov), or fax to 410-767-6483. Comments will be accepted through November 25, 2019. A public hearing has not been scheduled.

## **10.43.07 Chiropractic Assistants**

Authority: Health Occupations Article, §§3-205, 3-302.1, and 3-404, Annotated Code of Maryland

### **.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) “Applicant” means a person who is [undergoing]:

(a) *Undergoing* training to become a chiropractic assistant[.]; or

(b) *Applying to the Board for registration as a chiropractic assistant.*

(2) “Board” means the *Maryland* Board of Chiropractic Examiners.

(3) (text unchanged)

(4) *“Chiropractic assistant program” means a structured 1-year program of clinical chiropractic training under a Board-licensed supervising chiropractor in order to qualify and apply for a registration as a Maryland registered chiropractic assistant.*

[(4)] (5) *“Direct supervision” means supervision provided by a supervising chiropractor who is personally present and immediately available in the area where the procedures are performed to give aid, direction, and instruction when certain procedures or activities are performed by a chiropractic applicant or assistant.*

(6) *“Established patient” means an individual who has received professional services from a practicing supervising chiropractor who belongs to the same group practice in the past 3 years.*

(7) *“Inactive status” means the period of time that a registration is on hold.*

(8) *“Indirect supervision” means supervision by a supervising chiropractor that is provided by a phone call or text to give aid, direction, and instructions when certain activities, as set forth under Regulation .10 of this chapter, are performed by a chiropractic assistant.*

(9) *“Practice day” means the hours of physical practice with a patient, excluding the office’s designated lunch or exclusive administrative time.*

[(5)] (10) (text unchanged)

#### **[.05] .02 Chiropractic Applicant or Assistant Qualifications and Training.**

A. At the time of application [for hire and] *on the Request to Employ form* for training, an applicant shall:

(1)—(4) (text unchanged)

(5) Be enrolled in a Board-approved Cardiopulmonary Resuscitation (CPR) class *within 4 months of the commencement of the chiropractic assistant training* or be currently CPR certified;

(6)—(7) (text unchanged)

B. *An applicant who otherwise qualifies for being employed within the 1-year chiropractic assistant training program shall:*

(1) *Complete the profile portion of the application;*

(2) *Provide the supervising chiropractor with:*

(a) *The requested documentation;*

(b) *A diploma or transcripts;*

(c) *A valid State picture identification; and*

(d) *An authorization to work in the U.S. for the application documentation, if applicable; and*

(3) *Submit satisfactory evidence of having completed a State and national criminal history records check in accordance with Health Occupations Article, §3-302.1, Annotated Code of Maryland.*

[B.] C.—[C.] D. (text unchanged)

[D.] E. Within 120 days of the date of hire, the applicant shall:

(1)—(2) (text unchanged)

(3) Submit proof of completion of both requirements in a timely manner *on the form provided by the Board.*

[E.] F.—[F.] G. (text unchanged)

[G.] H. Failure to meet the requirements of [§§D and E] §§E and F of this regulation shall result in immediate suspension from the applicant training program.

#### **[.07] .03 Chiropractic Assistant Examinations and Application for Registration.**

A.—B. (text unchanged)

C. The applicant shall:

(1) Pay to the Board [an examination fee] as set forth in COMAR 10.43.06[;]:

(a) *A nonrefundable application fee; and*

(b) *An examination fee;*

(2) Submit all fees, transcripts, and application documentation postmarked [not] *no later than [45] 30 days before the examination date; and*

(3) (text unchanged)

D. The Board shall:

(1) Give examinations to applicants *at least* twice a year, at the times and places that the Board determines;

(2)—(3) (text unchanged)

E. (text unchanged)

F. The Board may not issue a [license or] registration if the criminal history records information required under §C(3) of this regulation has not been received.

#### **[.03] .05 Responsibilities of the Supervising Chiropractor.**

The supervising chiropractor shall:

A.—B. (text unchanged)

C. Maintain accurate, legible, and comprehensive records of all clinical training provided to the chiropractic applicant or assistant, including, but not limited to:

(1) Dates and times and duration of training as described in Regulation [.05] .02 of this chapter;

(2)—(4) (text unchanged)

D. *Follow indirect supervision procedures set forth under Regulation .10 of this chapter;*

[D.] E. Immediately produce the records described in §C of this regulation *and Regulation .10D(1) of this chapter* upon request or audit by the Board;

[E.] F.—[J.] K. (text unchanged)

**[.04] .06 Supervising Chiropractor Prohibited Acts.**

A. The supervising chiropractor may not:

- (1) (text unchanged)
- (2) Leave the treatment area [when]:
  - (a) [Treating] *When treating* a patient; [or]
  - (b) [A] *When a chiropractic applicant [or assistant] is treating a patient; or*
  - (c) *During a chiropractic applicant's 20-hour observation period;*
- (3) Permit a chiropractic applicant [or assistant] to treat a patient without the presence of the supervising chiropractor in the treatment area[.]; *or*
- (4) *Be unavailable by phone call or text when a chiropractic assistant is treating an established patient with an established treatment program as set forth under Regulation .10B of this chapter.*

B. (text unchanged)

**[.08] .07 Activities That May Be Performed by Chiropractic Applicants [and] or Assistants Without Direct Supervision.**

[Only a] A chiropractic applicant or assistant may perform the following activities without the direct supervision of a supervising chiropractor:

A.—F. (text unchanged)

**[.09] .08 Activities That May Be Performed by Chiropractic Applicants and Assistants Under Direct Supervision of a Supervising Chiropractor.**

A chiropractic applicant or assistant may perform the following activities [only] under the direct supervision of a supervising chiropractor who is in the treatment area:

A.—Q. (text unchanged)

**[.10] .09 Chiropractic Applicant or Assistant Prohibited Acts.**

A chiropractic applicant or assistant may not engage in any of the following activities:

A.—B. (text unchanged)

[C. Take x-rays or position patients for x-rays;]

[D.] C.—[F.] E. (text unchanged)

**.10 Indirect Supervision.**

A. *Indirect supervision may only be provided by a supervising chiropractor to a registered chiropractic assistant who is treating an established patient.*

B. *A chiropractic assistant may perform the following activities under the indirect supervision of a supervising chiropractor to an established patient with an established treatment program for not more than 10 percent of the treatment time in a given 30 days, without exceeding 3 consecutive days in a given week:*

- (1) *Functional activities of daily living and hygiene;*
- (2) *Gait practice, ambulation, administration, and observation of therapeutic exercises as prescribed by a supervising chiropractor;*
- (3) *Assist in moving a patient within the treatment area;*
- (4) *Contrast baths;*
- (5) *Hot and cold packs;*
- (6) *Hubbard tank;*
- (7) *Infrared, ultraviolet irradiation, nonlaser light therapy, and nonablative therapeutic laser;*
- (8) *Muscle stimulation;*
- (9) *Electrotherapy;*
- (10) *Paraffin baths;*
- (11) *Traction therapy;*
- (12) *Ultrasound;*
- (13) *Whirlpool;*
- (14) *Diathermy;*
- (15) *Therapeutic massage, if licensed under Health Occupations Article, Title 6, Annotated Code of Maryland; and*
- (16) *Mechanical or computerized examination procedures for the sole purpose of collecting data subject to the following conditions:*

(a) *All data will later be used and interpreted by the chiropractor to form a diagnosis and treatment plan; and*

(b) *No test may be performed that requires diagnosis or interpretation as part of the data collecting or testing procedure.*

C. *A chiropractic assistant who participates in indirect supervision shall be:*

(1) *In good standing with the Board; and*

(2) *Trained and proficient in the office's indirect supervision protocol, which includes:*

- (a) Informed consent to the patient; and
- (b) Immediate access to the supervising chiropractor.

**D. The supervising chiropractor shall:**

- (1) Prior to the implementation of indirect supervision, establish and make readily available an:
  - (a) Emergency procedures protocol; and
  - (b) Indirect supervision protocol;
- (2) Maintain a log of indirect supervision treatment, which includes:
  - (a) Patient's name or identification information; and
  - (b) Treatment:
    - (i) Date;
    - (ii) Time initiated;
    - (iii) Duration; and
    - (iv) Procedure or activity provided; and
- (3) Review or update, or both, indirect supervision orders every 30 days.

**E. An indirect supervision protocol shall be listed on the office's:**

- (1) Consent to treatment form signed by the patient; or
- (2) Informed consent protocol.

**.11 Chiropractic Assistant — Radiology.**

A. A chiropractic assistant may perform the duties of a chiropractic radiologic technologist only as directed by a supervising chiropractor.

**B. A chiropractic assistant may not:**

- (1) Provide oral or written diagnosis; or
- (2) Work independently.

**C. A chiropractic assistant may perform x-rays only after the completion of:**

- (1) 60 hours of didactic training in a Board-approved course of instruction that includes:
  - (a) Radiation physics;
  - (b) Radiation biology;
  - (c) Radiation protection;
  - (d) Imaging principles in radiation exposure;
  - (e) Patient preparation and positioning;
  - (f) Human anatomy and physiology; and
  - (g) Emergency procedures; and
- (2) 30 x-ray studies under the direct supervision of a supervising chiropractor that include:
  - (a) 10 cervical series which include the following views:
    - (i) Anterior to posterior;
    - (ii) Lateral;
    - (iii) Anterior to posterior open mouth;
    - (iv) Flexion;
    - (v) Extension; and
    - (vi) Oblique;
  - (b) 10 thoracic series which include the following views:
    - (i) Anterior to posterior;
    - (ii) Lateral;
    - (iii) Flexion; and
    - (iv) Extension; and
  - (c) 10 lumbar series which include the following views:
    - (i) Anterior to posterior;
    - (ii) Lateral;
    - (iii) Flexion; and
    - (iv) Extension.

**.13 Inactive Status.**

A. The Board shall place a registration holder on inactive status if the registration holder submits to the Board the:

- (1) Completed application for inactive status on the form provided by the Board; and
- (2) Biennial fee for inactive status as specified in COMAR 10.43.06.

**B. The registration holder on inactive status:**

- (1) Is not entitled to practice chiropractic until the registration is reactivated; and
- (2) May reactivate the registration at any time if the:
  - (a) Application for reactivation is completed; and
  - (b) Reactivation fee is paid as set forth in COMAR 10.43.06.

**.14 Nonrenewed Status.**

A. *The Board shall place a registration holder in a nonrenewed status if the registration holder fails to complete an application for:*

- (1) Registration renewal during the biennial cycle; or*
- (2) Inactive status during the renewal cycle.*

B. *The registration holder may reinstate a nonrenewed status for registration within 5 years of the expiration date of the last active registration.*

C. *If the expired registration holder is on nonrenewed status for more than 5 years, the holder shall:*

- (1) Reapply; and*
- (2) Meet all of the requirements set forth in this chapter.*

## 10.43.13 Code of Ethics

Authority: Health Occupations Article, §§1-212, 3-205, and 3-313, Annotated Code of Maryland

### .06 Records, Confidentiality, and Informed Consent.

A chiropractor shall:

A. (text unchanged)

B. Disclose the patient's records or information about the patient only:

*(1) In accordance with the [patient's] consent to treatment form signed by the:*

*(a) Patient; or*

*(b) Parent or guardian of a minor patient or incompetent patient; or [as]*

*(2) As required by law[;].*

C.—G. (text unchanged)

## 10.43.14 Record Keeping

Authority: Health Occupations Article, §3-205, Annotated Code of Maryland

### .03 Record Keeping.

A.—B. (text unchanged)

C. The Patient Record.

*(1)—(2) (text unchanged)*

*(3) The chiropractor shall include the following information in the patient record:*

*(a)—(j) (text unchanged)*

*(k) The signed consent to treatment form of the [patient]:*

*(i) Patient; or [the parent]*

*(ii) Parent or guardian of a minor patient or incompetent patient.*

D.—E. (text unchanged)

### .04 Supervisory Responsibilities.

A. The chiropractor is responsible for record keeping, consent to treatment forms, billing, and other patient-related documentation handled, maintained, or managed by the chiropractor's staff.

B. (text unchanged)

ROBERT R. NEALL  
Secretary of Health